



**Town of Harpswell**  
**Planning Board Minutes**  
**October 21, 2015**  
**Adopted November 18, 2015**

**Members Present**

David I. Chipman, Chair  
Burr Taylor  
Debora Levensailor  
Frank Wright IV, Associate Member

**Members Absent**

Paul Standridge, Vice Chair  
Aaron Fuchs  
John Papacosma, Associate Member

**Staff Present**

Diane Plourde, Recording Secretary

The Town of Harpswell Planning Board meeting was called to order at 6:30 p.m. by David Chipman, Chair. The Pledge of Allegiance was recited and Board members were introduced. The Chair appointed Frank Wright a full voting member for this meeting.

**Old Business:** None

**New Business: 15-10-01** (a) Frank & Lisa True (applicants/Owners), 15 McKinney Road, Harpswell, Map 16 Lot 154 – Consideration of the Planning Board’s option to exercise Jurisdiction over an application to reconstruct a nonconforming structure. (b) Frank & Lisa True – Reconstruction of a Nonconforming Structure

Frank True told the Board that they plan to remove two existing structures and replace with a one new dwelling as far back from the high water mark as the lot allows. The new structure will be outside the FEMA flood zone. The septic system will be replaced and moved farther away from the water. The existing setbacks will still be nonconforming but this cannot be changed. The footprint of the new structure will be less than the structure being removed.

Burr Taylor moved seconded by Debora Levensailor to remand this application to the Code Enforcement Office. Motion carries 4-0.

**15-09-01** – Emile Clavet (Applicant), Quahog Bay LLC (Owner) Map 48 Lot 93 – Birch Run/Tondreau Point, Harpswell – Final Subdivision Plan Submission for a two-acre lot subdivision

Emile Clavet spoke of the subdivision hoping to satisfy the Board with this final application process. He said that the last month’s meeting produced concerns primarily with the stormwater review which ultimately had a peer review by Will Haskell of Gorrill Palmer. The findings were consistent with Ransom Engineering. It was recommended that language be added to the homeowners association that drainage easements be maintained by the homeowners association so that they don’t inevitably become the responsibility of any single lot owner.

**Public Comment:**

Mary Ann Nahf representing the Conservation Commission said the HCC has seen the updated Homeowners Association material and the owners have been open to speak with the members of the HCC. They were pleased that it was included in the Covenants, that those purchasing the properties be given a guide handling stormwater on the properties. If anyone has questions regarding

Planning Board meeting  
October 21, 2015  
Adopted November 18, 2015

stormwater on site, the HCC can help answer those. Ms. Nahf said she looked at the stormwater drainage after the September 30<sup>th</sup> storm and was pleased by what she saw and would like to use this as an example for what other homeowners could do on their own properties.

David Chipman moved seconded by Debora Levensailor that the application is complete.

**Discussion:** Mr. Wright said this plan does not show the lot markers and Mr. Clavet indicated that Dave Titcomb of Titcomb Associates was hired to place the markers upon approval of this application. Motion carries 4-0.

**Under Section 9.1 of the Subdivision Ordinance:**

David Chipman moved seconded by Burr Taylor that the project does conform to all pertinent local, State, and federal ordinances, law, and regulations, based on the fact that Lot 1 as shown on the subdivision plan is the pre-existing lot and is not part of the subdivision. Lots 2 through 8 each have more than 80,000 square feet of lot area. There are no deductions from the gross area required so the lots meet the lot area requirement. Each of the proposed lots has the required minimum road frontage of 150 feet. Motion carries 4-0.

**Under Section 9.2 of the Subdivision Ordinance:**

David Chipman moved seconded by Debora Levensailor that the project does not have an unreasonable adverse impact on municipal services, based on the fact that the road will be private and maintained by the association. The applicant represents that this will be a community “about-to-retire” or retired households. Each household will be responsible for disposal of its solid waste. Motion carries 4-0.

**Under Section 9.3 of the Subdivision Ordinance:**

David Chipman moved seconded by Debora Levensailor that the project does preserve the landscape in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction, based on the fact that the road is existing and properties will be developed individually by later owners. The proposed covenants limit the wholesale or commercial cutting of trees on the individual lots. Motion carries 4-0.

**Under Section 9.4 of the Subdivision Ordinance:**

David Chipman moved seconded by Debora Levensailor that (A) the project does satisfy the lot size and frontage requirements of Section 9.4.1, based on the fact that all the lots meet the minimum lot size and road frontage requirements. Lot 2 meets the shore frontage requirements. Motion carries 4-0 and

David Chipman moved seconded by Burr Taylor that (B) the project does not constitute a flag lot or odd-shaped lot under Section 9.4.2, based on the fact that all lots have the minimum required road frontage of 150 feet and

David Chipman moved seconded by Burr Taylor that (C) the alternate subdivision design provisions of Section 9.4.3 does not apply. Motion carries 4-0.

**Under Section 9.5 of the Subdivision Ordinance:**

David Chipman moved seconded by Debora Levensailor that the project does not include any land not suitable for development for the purpose of calculation of lot area, based on the fact that there are no areas that are required to be excluded from the lot size calculation. None of the identified wetlands are large enough to require deduction from the lot area. Motion carries 4-0.

**Under Section 9.6 of the Subdivision Ordinance:**

David Chipman moved seconded by Debora Levensailor that (A) the project does demonstrate compliance with the requirements relating to lot markers in Section 9.6.1, based on the fact that lot markers are not shown on the plan therefore they will be added before approval of the plan. Motion carries 4-0 and

David Chipman moved seconded by Burr Taylor that (B) the project does satisfy the five (5) water supply requirements of Section 9.6.2.1-9.6.2.5, based on the fact that the applicant has provided a letter from a well driller indicating that water should be available. Motion carries 4-0 and

David Chipman moved seconded by Debora Levensailor that (C) the project does satisfy the three (3) sewage disposal requirements in Section 9.6.3.1-9.6.3.3, based on the fact that information was projected that a subsurface sewage disposal system meeting the State Plumbing Code can be installed on each lot. Motion carries 4-0 and

David Chipman moved by Burr Taylor that (D) the project does provide for adequate emergency vehicle access to the subdivision and for water supply for fire protection, based on the fact that the Fire Chief has approved the access to the subdivision. There are no provisions for fire protection water supplies. The Chief implies that the existing cistern at Cundy's Harbor Road will provide adequate fire protection supplies but he recommends the installation of residential sprinklers. Motion carries 4-0.

**Under Section 9.7 of the Subdivision Ordinance:**

David Chipman moved seconded by Debora Levensailor that (A) the project will not cause soil erosion or a reduction in the land's capacity to hold waters such that a dangerous or unhealthy condition results, based on the fact that the road has been constructed and was inspected by the applicant's agent as well as our own engineer. As a result remedial erosion control measures were undertaken that appear to have addressed this concern. Motion carries 4-0 and

David Chipman moved seconded by Debora Levensailor that (B) the project does comply with the soil conservation and erosion and sediment control measures in Section 9.7.2, based on the fact that the road has been constructed and was inspected by the applicant's agent. As a result remedial erosion control measures were undertaken that appear to have addressed this concern. Motion carries 4-0.

**Under Section 9.8 of the Subdivision Ordinance:**

Frank Wright moved seconded by David Chipman that the project does demonstrate that, where feasible, utilities and essential services will be installed in existing public ways or service corridors, and any remaining above-ground facilities will be located so as to avoid crossing open areas and scenic views as identified in the Comprehensive Plan, based on the fact that utilities will be provided overhead. The proposed pole locations are shown on the subdivision plans. Motion carries 4-0.

**Under Section 9.9 of the Subdivision Ordinance:**

Frank Wright moved seconded by Debora Levensailor that the project does comply with the Harpswell Floodplain Management Ordinance, to the extent any part of the development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, based on the fact that there is a small areas of Lot 2 along Brickyard Cove within the Flood Hazard Area. No development is proposed in this area and the Shoreland Zoning requirements will prohibit any development in the Flood Hazard Area. Motion carries 4-0.

Planning Board meeting  
October 21, 2015  
Adopted November 18, 2015

**Under Section 9.10 of the Subdivision Ordinance:**

Frank Wright moved seconded by Debora Levensailor that the project does demonstrate that the development is designed to minimize impacts on wetlands, based on the fact that wetlands have been identified and mapped. There are four small isolated wetlands on the site. The lots have been laid out so that all lots have buildable areas outside of seventy-five (75) foot buffers from wetland areas. As the lots are developed after the subdivision is approved each individual property owner will be responsible for the impacts of their own structures. Motion carries 4-0.

**Under Section 9.11 of the Subdivision Ordinance:**

Frank Wright moved seconded by David Chipman that 9.11.1 the proposed subdivision plan will not alone, or in conjunction with abutters or other existing activities, adversely affect the quality or quantity of groundwater and 9.11.2 a subdivision plan must not increase the nitrate concentration in the groundwater at the boundary to more than ten (10) milligrams per liter, and 9.11.3 subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards must be included as a note on the final plan, and 9.11.4 the proposed subdivision plan shall use on-site techniques to assure that the amount of aquifer recharge post-development is no less than the amount before development, and 9.11.5 groundwater withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision, and 9.11.6 water conservation devices shall be used by the applicant to minimize negative groundwater impacts of the development. Motion carries 4-0.

**Under Section 9.12 of the Subdivision Ordinance:**

Frank Wright moved seconded by David Chipman that the applicant has submitted a stormwater analysis that was peer-reviewed by Gorrill Palmer Engineers. The analysis and review suggest that adequate provisions have been made for stormwater management from the road. Will Haskell from Gorrill Palmer recommends that drainage easements be provided across Lots 2 and 5 allowing the Road Association to enter and maintain the drainage courses downstream of the cross-culverts. The Board should require that the plan be revised to show these drainage easements and that the appropriate easement language be provided to the Town.

**Discussion:** Mr. Clavet said he has spoken with counsel and Ransom Engineering and they recommend this be included in the Homeowners Association documents and give the Homeowners Association the rights and responsibility to maintain those drainage easements and swales to the lot lines.

Frank Wright and David Chipman withdrawn their motion.

Burr Taylor moved seconded by David Chipman that the project does include adequate provisions for disposal of all stormwater generated within the subdivision and does satisfy the five (5) stormwater management standards of Sections 9.12.3.1-9.12.3.5. Motion carries 4-0.

**Under Section 9.13 of the Subdivision Ordinance:**

Frank Wright moved seconded by David Chipman that since the project does not involve a subdivision on an offshore island, this Section does not apply. Motion carries 4-0.

Planning Board meeting  
October 21, 2015  
Adopted November 18, 2015

**Under Section 9.14 of the Subdivision Ordinance:**

Frank Wright moved seconded by Debora Levensailor that the project does preserve the scenic and natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline, in compliance with the standards set forth in Section 9.14.1-9.14.6, based on the fact that the subdivision was designed to take advantage of the natural characteristics of the site. There are no significant habitats on the upland portion of the site. The Shoreland Zoning requirements will provide protection for the wading bird habitat. There are no other identified significant resources on the site.

Motion carries 4-0.

**Under Section 9.15 of the Subdivision Ordinance:**

Frank Wright moved seconded by David Chipman that (A) the project will not create unreasonable highway or public road congestion or unsafe conditions for vehicular traffic and pedestrians, based on the fact that access to the site is via Tondreau Point Road and Birch run which are private roads, The Road Commissioner reviewed the adequacy of those roads to provide access to the subdivision. He reported that the roads are in good shape and provide adequate access for the subdivision. He noted that Tondreau Point Road narrows near the mail box cluster but he believes the width is adequate. and

(B) That the project does satisfy the four (4) general traffic requirements of Sections 9.15.2.1-9.15.2.4, based on the fact that the road was designed and constructed in accordance with the Town Road Ordinance and the applicant has provided a letter from Crooker Construction. and

(C) That the project does satisfy the three (3) road design and construction standards Section 9.15.3.1-9.15.3.3 based on the fact that the road was designed and constructed in accordance with the town Road Ordinance and the applicant has provided a letter from Crooker Construction.

Motion carries 4-0.

**Under Section 9.16 of the Subdivision Ordinance:**

Frank Wright moved seconded by Debora Levensailor that the project does have a Homeowners/Landowners Association that complies with the five (5) standards of Sections 9.16.1-9.15.6, based on the fact that the applicant proposes that the road be owned and maintained by a road association. The application contains the required documentation. Motion carries 4-0.

**Under Section 9.17 of the Subdivision Ordinance:**

Frank Wright moved seconded by David Chipman that the community docks standard of Section 9.17 is not applicable. Motion carries 4-0.

**Under Section 9.18 of the Subdivision Ordinance:**

David Chipman moved seconded by Debora Levensailor that the provisions of Section 11.18 of the Town's Basic Land Use Ordinance is not applicable. Motion carries 4-0.

**Under Section 10.1 of the Subdivision Ordinance:**

David Chipman moved seconded by Debora Levensailor that the project does require a performance guarantee, based on the fact that the road, drainage and erosion control improvements have been completed. Motion carries 4-0.

Planning Board meeting  
October 21, 2015  
Adopted November 18, 2015

David Chipman moved seconded by Debora Levensailor that the Planning Board finds that the applicant, Quahog Bay LLC, has met the standards of the Town of Harpswell Subdivision Ordinance and votes to approve the application and subdivision plan with the standard condition(s) of approval:

1. This approval is not final until such time as final plans, showing all conditions of approval and any waivers granted, have been signed by the Planning Board.
2. This approval is based on the approved plans listed below, and on all submissions and information provided by the applicant at final approval, whether referenced in any findings or conditions of approval.
3. All work shall be completed in conformance with the approved plans, drawn by Titcomb Associates and dated September 30, 2015.
4. This approval is dependent upon and limited to the proposal and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plan, proposals, and supporting documents, except *de minimis* changes as determined by the Town Planner that do not affect approval standards, is subject to the review and approval of the Planning Board prior to implementation.
5. All work shall be completed in accordance with Best Management Practices for Soil Erosion and Sediment Control.
6. The applicant shall obtain all necessary State and federal approvals before the applicant commences any land use activity pursuant to this site plan approval. If a State or federal agency imposes any more stringent conditions on the applicant or if the other agency's conditions of approval in any way impact the substantive site plan review criteria, the applicant shall return to the Planning Board for review and approval of an amended application.
7. Lot markers will be placed according to the ordinance requirements.

and

1. The subdivision plan shall be revised to delineate stormwater easements across Lots 2 and 5 that encompass the channel for the discharge of stormwater from the two road culverts.
2. Provide lot markers on the final plan.

Motion carries 4-0.

**Wild Duck Boat Works, LLC, Map 14 Lot 72 – Consideration of removing a Condition of Approval on the Site Plan Review of Wild Duck Boat Works, LLC, January 15, 2014**

John Moore, owner of Wild Duck Boat Works, LLC stated that at the January 2014 Planning Board meeting, it was agreed that he would erect an eight (8) foot high stockade fence, twenty-four (24) feet long. He purchased the fence in January. He was alerted in 2015 that he was not in compliance because the fence had not been erected per the Site Plan Review. Mr. Moore contact the abutters, the Almayes, and they told Mr. Moore that they did not want the fence put up after all. Both Mr. Moore and the Almayes sent letters to the Code Office to that effect.

Debora Levensailor moved seconded by David Chipman that the Board remove the Condition of Approval on the Site Plan Review of Wild Duck Boat Works, LLC of January 15, 2014 on Map 14 Lot 22. Motion carries 4-0.

Planning Board meeting  
October 21, 2015  
Adopted November 18, 2015

**Consideration of minutes:** September 16, 2015

Debora Levensailor moved seconded by David Chipman to accept the minutes of September 16, 2015 as presented. Motion carries 3-0, Frank Wright abstains

The Chair asked the Board their reviews regarding the Ordinance changes concerning nonconforming structures. The changes were to have Code Office consult with Assessing Office on the value of the structures. He asked if the Board if they had any more changes to add. This will be continued until the workshop as well as the next scheduled meeting.

Discussion continued regarding Section 15.5.6 of the Shoreland Zoning Ordinance for Individual Private Campsites. The Code Office indicated that many people building houses want to stay on their property while building houses but can only stay 120 days and wanted this increased to 270 days. Discussion continued on this subject and will be continued at the next workshop meeting on November 4, 2015. The Code Officer will be invited to attend the November 4<sup>th</sup> workshop.

Ned Simmons spoke about the ordinance changes regarding nonconforming structures. Discussion continued regarding when the Board is notified of applications that include more than 50% of nonconforming structures applications. The changes suggested are to have the Assessor notified of application that are requiring more than 50% renovations and the Assessor will provide assessed value to the Code Enforcement Officer.

The HCC will be submitting ordinance amendments to the workshop on November 4<sup>th</sup> regarding the Fertilizer/Pesticide Ordinance.

**Planner's Update:** None

**Other Business:** None

**Communications:** None

**Adjournment:** Frank Wright moved seconded by Debora Levensailor to adjourn the meeting. Meeting adjourned at 8:05PM

Respectfully submitted by:

Diane E. Plourde  
Recording Secretary